UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,493	08/13/2001	Albert Honey Perdon	SEDN/PRED144	7921

56015 7590 04/19/2007
PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER	
SALL, EL HADJI MALICK	
ART UNIT	**PAPER NUMBER**
2157	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/928,493
Filing Date: August 13, 2001
Appellant(s): PERDON ET AL.

Eamon J. Wall (39,414)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 28, 2006 appealing from the Office action mailed July 5, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,029,195	Herz	02-2000
6,819,669	Rooney	11-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-12, 14-33, 35-44 and 46-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz U.S. 6,029,195 in view of Rooney U.S. 6,819,669.

Herz teaches the invention substantially as claimed including system for customized electronic identification of desirable objects.

As to claim 1, Herz teaches a method of predicting the behavior of a current user of an interactive service, comprising the steps of:

Identifying each activity in which the current user participates while engaged with the interactive service, and conditions surrounding each such activity (column 32, lines 32-39; column 1, lines 17-21; see abstract);

Accessing a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities (column 3, lines 39; column 6, lines 22-25, the activities including viewing interactive television programming (column 90, lines 10-22);

Comparing (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween (column 7, lines 9-18); and

Attributing to the current user a pattern of future behavior based on such similarities and on the other users' patterns of behavior (column 48, lines 49-57).

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

As to claim 2, Herz teaches the method of claim 1, wherein the step of identifying the conditions surrounding each of the current user's activities includes determining the amount of time that the current user participates in each activity (column 4, lines 39-43, Herz discloses which system enables a user to access target objects of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy)

As to claim 3, Herz teaches the method of claim 2, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which

each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; abstract).

As to claims 4 and 5, Herz teaches the method of claims 3 and 1, wherein the first collection of data is based on the other users' activities while engaged with the interactive service (column 3, lines 35-45).

As to claim 6, Herz teaches method of claim 1, wherein the other users are unrelated individual persons (column 30, lines 47-49).

As to claim 7, Herz teaches the method of claim 1, wherein the other users are members of a group and the current user is identifiable as a potential member of that group (column 48, lines 45-49).

As to claim 8, Herz teaches the method of claim 1, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; abstract).

As to claim 9, Herz teaches the method of claim 1, further comprising the step of:

periodically updating the first collection of data to reflect the other users' ongoing participation in additional activities (column 5, lines 28-30).

As to claim 10, Herz teaches the method of claim 9, wherein the step of periodically updating occurs in real time, during the current user's engagement with the interactive service (column 5, lines 28-30).

As to claim 11, Herz teaches the method of claim 1, further comprising the step of:

accessing a second collection of data that reflects (i) a plurality of activities that are available via the interactive television service and (ii) information about each activity within such plurality of available activities that distinguishes it from the other activities within such plurality (column 34, lines 33-45; column 90, lines 10-22); and

wherein the step of attributing includes selecting one or more activities, from the plurality of available activities, in which the current user is most likely to participate during the engagement with the interactive television service (column 90, lines 10-22; abstract).

As to claim 12, Herz teaches the method of claim 1, wherein the interactive television service is accessed through the Internet, the current user's activities and the other users' activities include visits to Internet web sites, and the first collection of data includes data reflecting (i) the identity of each other user (column 1, lines 40-42; abstract), (ii) the types of Internet web sites that each other user has visited (column 7, lines 30-35), (iii) the content of each type of Internet web site visited by each other user

(column 32, lines 32-39), and (iv) the amount of time spent at each type of Internet web site by each other user (column 33-34, lines 65-67 to 1-3).

As to claim 14, Herz teaches the method of claim 12, further comprising the step of:

periodically updating the first collection of data to reflect the other users' visits to additional Internet web sites (column 5, lines 28-30).

As to claim 15, Herz teaches the method of claim 14, wherein the step of periodically updating occurs in real time, during the current user's engagement with the service (column 5, lines 28-30).

As to claim 16, Herz teaches the method of claim 12, further comprising the step of:

accessing a second collection of data that reflects (i) a plurality of types of Internet web sites that are available for the current user to visit and (ii) information about each type of web site within such plurality that distinguishes it from the other types of web sites within such plurality (column 7, lines 30-47); and

wherein the step of attributing includes selecting one or more types of web sites, from the plurality of types of web sites, which the current user is most likely to visit during the engagement with the service (column 87, lines 46-53).

As to claim 17, Herz teaches a method of predicting the behavior of a user of an interactive television service, during a particular period of engagement with the interactive television service, comprising:

identifying activities in which the user participates during the period of engagement, and conditions surrounding each such activity (column 32, lines 32-39; see abstract);

identifying the activities of multiple other contemporaneous users of the interactive service during the same period of engagement, and conditions surrounding such activities (column 32, lines 32-39), the activities including viewing interactive television programming (column 90, lines 10-22);

maintaining a first collection of data that includes data reflecting both the user's and the other contemporaneous users' cumulative activities identified during the period of engagement, and conditions surrounding such cumulative activities (column 3, lines 35-45, Herz discloses a number of other research groups have looked at the automatic generation and labeling of clusters of articles for the purpose of browsing through the articles);

determining, from such first collection of data, patterns of behavior exhibited by such user's and the other contemporaneous users' participation in activities during the period of engagement (column 7, lines 19-51);

incorporating, into the first collection of data, data reflecting such determined patterns of behavior (column 27, lines 1-6, Herz discloses it should be trained to take the attributes of a target object as input, and produce as output a unique pattern that

can be used to identify the appropriate low-level cluster. For maximum accuracy, low-level clusters that are similar to each other (close together in the cluster tree) should be given similar identifying patterns);

comparing (i) the user's present activities and surrounding conditions and (ii) the cumulative activities and surrounding conditions as reflected in such first collection of data, to identify similarities therebetween (column 7, lines 9-18);

attributing to the user a pattern of future behavior based on such similarities and on the previously determined patterns of behavior (column 48, lines 49-57).

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

As to claim 18, Herz teaches the method of claim 17, further comprising the step of:

continually updating the first collection of data, to reflect (i) the user's and the other contemporaneous users' participation in additional activities and (ii) the determination of new patterns of behavior based on such participation in additional activities (column 5, lines 28-30, Herz discloses users' target profile interest summaries

are automatically updated on a continuing basis to reflect each user's changing interests); and

wherein the steps of comparing and attributing are performed, at any given point in time, in conjunction with the updated first collection of data (column 17-18, lines 60-67 to lines 1-8)

As to claim 19, Herz discloses the method of claim 18, further comprising the step of:

accessing a second collection of data that reflects (i) a plurality of activities that are available via the interactive service and (ii) information about each activity within such plurality of available activities that distinguishes it from the other activities within such plurality (column 34, lines 33-45; column 90, lines 10-22); and

wherein the step of attributing includes selecting one or more activities, from the plurality of available activities, in which the current user is most likely to participate during the period of engagement with the interactive service (column 90, lines 10-22; abstract).

As to claim 20, Herz teaches the method of claim 18, wherein the interactive service is accessed through the Internet, the user's and other contemporaneous users' activities comprise visits to Internet web sites, and the first collection of data includes data reflecting (i) the types of Internet web sites that the user and the other contemporaneous users have visited (column 7, lines 30-35), (ii) the content of each

type of Internet web site visited (column 32, lines 32-39), (iii) the amount of time spent at each type of Internet web site visited (column 33-34, lines 65-67 to 1-3).

As to claim 21, Herz teaches the method of claim 20, further comprising the step of:

accessing a second collection of data that reflects (i) a plurality of types of Internet web sites that are available for the user to visit and (ii) information about each type of web site within such plurality that distinguishes it from the other types of web sites within such plurality (column 7, lines 30-47); and

wherein the step of attributing includes selecting one or more types of web sites, from the plurality of types of web sites, which the current user is most likely to visit during the engagement with the service (column 87, lines 46-53).

As to claim 22, Herz teaches a method of delivering targeted informational content to a current user of an interactive television service, comprising:

identifying each activity in which the current user participates while engaged with the interactive service, and conditions surrounding each such activity (column 32, lines 32-39; column 1, lines 17-21; abstract);

accessing a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) preferences exhibited by such other users through their participation

in such cumulative activities (column 3, lines 39; column 6, lines 22-25), the activities including viewing interactive television programming (column 90, lines 10-22);

comparing (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween (column 7, lines 9-18);

attributing to the current user a preference profile based on such similarities and on the other users' preferences (column 48, lines 49-57); and

generating an ordered list of informational content to be selectively delivered to the current user based on the preference profile (column 3, lines 1-3; abstract).

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

As to claim 23, Herz teaches the method of claim 22, wherein the step of identifying the conditions surrounding each of the current user's activities includes determining the amount of time that the current user participates in each activity (column 33-34, lines 65-67 to 1-3).

As to claim 24, Herz teaches the method of claim 22, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 33-34, lines 65-67 to 1-3; abstract).

As to claims 25 and 26, Herz teaches the method of claims 24 and 22, wherein the first collection of data is based on the other users' activities while engaged with the interactive television service (column 3, lines 35-45, Herz discloses a number of other research groups have looked at the automatic generation and labeling of clusters of articles for the purpose of browsing through the articles; column 90, lines 10-22).

As to claim 27, Herz teaches the method of claim 22, wherein the other users are unrelated individual persons (column 10, lines 17-18, Herz discloses the user is an employee and the target objects are classifieds for potential employers; column 30, lines 47-49, Herz discloses a group of users who have been previously interacting on-line with another user).

As to claim 28, Herz teaches the method of claim 22, wherein the other users are members of a group and the current user is identifiable as a potential member of that group (column 48, lines 45-49).

As to claim 29, Herz teaches the method of claim 22, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; column 33-34, lines 65-67 to 1-3; abstract).

As to claim 30, Herz teaches the method of claim 22, further comprising the step of:

periodically updating the first collection of data to reflect the other users' ongoing participation in additional activities (column 5, lines 28-30).

As to claim 31, Herz teaches the method of claim 30, wherein the step of periodically updating occurs in real time, during the current user's engagement with the interactive television service (column 5, lines 28-30; column 90, lines 10-22).

As to claim 32, Herz teaches the method of claim 22, further comprising the step of:

accessing a second collection of data that reflects (i) a plurality of activities that are available via the interactive television service and (ii) information about each activity within such plurality of available activities that distinguishes it from the other activities within such plurality (column 34, lines 33-45); and

wherein the step of attributing a preference profile is based in part on those activities, from the plurality of available activities, in which the current user is most likely to participate during the engagement with the interactive television service (column 87, lines 46-53; abstract).

As to claim 33, Herz teaches the method of claim 22, wherein the interactive television service is accessed through the Internet, the current user's activities and the other users' activities include visits to Internet web sites, and the first collection of data includes data reflecting (i) the identity of each other user, (ii) the types of Internet web sites that each other user has visited, (iii) the content of each type of Internet web site visited by each other user, and (iv) the amount of time spent at each type of Internet web site by each other user (column 77, lines 19-23 column 7, lines 30-35; column 32, lines 32-39; column 33-34, lines 65-67 to 1-3).

As to claim 35, Herz teaches a computer-readable medium having stored thereon instructions for predicting the behavior of a current user of an interactive television service which, when executed by a processor, cause the processor to perform the steps of:

identifying each activity in which the current user participates while engaged with the interactive service, and conditions surrounding each such activity (column 1, lines 17-21; column 32, lines 32-39; abstract);

accessing a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities (column 3, lines 39; column 6, lines 22-25), the activities including viewing interactive television programming (column 90, lines 10-22);

comparing (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween (column 7, lines 9-18); and

attributing to the current user a pattern of future behavior based on such similarities and on the other users' patterns of behavior (column 48, lines 49-57).

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

As to claim 36, Herz teaches the computer-readable medium of claim 35, wherein the instruction that causes the processor to perform the step of identifying the conditions surrounding each of the current user's activities causes the processor to

perform the step of determining the amount of time that the current user participates in each activity (column 32, lines 32-39; abstract).

As to claim 37, Herz teaches the computer-readable medium of claim 36, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; abstract).

As to claim 38, Herz teaches the computer-readable medium of claim 37, wherein the first collection of data is based on the other users' activities while engaged with the interactive television service (column 3, lines 35-45; column 90, lines 10-22).

As to claim 39, Herz teaches the computer-readable medium of claim 35, wherein the first collection of data is based on the other users' activities while engaged with the interactive television service (column 3, lines 35-45; column 90, lines 10-22).

As to claim 40, Herz teaches the computer-readable medium of claim 35, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; column 33-34, lines 65-67 to 1-3; abstract).

As to claim 41, Herz teaches the computer-readable medium of claim 1, having stored thereon further instructions which, when executed by the processor, cause the processor to perform the step of: periodically updating the first collection of data to reflect the other users' ongoing participation in additional activities (column 5, lines 28-30).

As to claim 42, Herz teaches the computer-readable medium of claim 41, wherein the instructions that cause the processor to perform the step of periodically updating cause it to do so in real time, during the current user's engagement with the interactive television service (column 5, lines 28-30; column 90, lines 10-22).

As to claim 43, Herz teaches the computer-readable medium of claim 35, having stored thereon further instructions which, when executed by the processor, cause the processor to perform the step of:

accessing a second collection of data that reflects (i) a plurality of activities that are available via the interactive service and (ii) information about each activity within such plurality of available activities that distinguishes it from the other activities within such plurality (column 34, lines 33-45); and

wherein the step of attributing includes selecting one or more activities, from the plurality of available activities, in which the current user is most likely

to participate during the engagement with the interactive service (column 90, lines 10-22; abstract).

As to claim 44, Herz teaches the computer-readable medium of claim 35, wherein the interactive service is accessed through the Internet, the current user's activities and the other users' activities comprise visits to Internet web sites, and the first collection of data includes data reflecting (i) the identity of each other user, (ii) the types of Internet web sites that each other user has visited, (iii) the content of each type of Internet web site visited by each other user, and (iv) the amount of time spent at each type of Internet web site by each other user (column 77, lines 19-23; column 7, lines 30-35; column 32, lines 32-39; column 33-34, lines 65-67 to 1-3; column 90, lines 10-22).

As to claim 46, Herz teaches Apparatus for predicting the behavior of a current user of an interactive television service, comprising:

means for identifying each activity in which the current user participates while engaged with the interactive television service, and conditions surrounding each such activity (column 1, lines 17-21; column 32, lines 32-39; column 90, lines 10-22);

means for accessing a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users

through their participation in such cumulative activities (column 3, lines 39; column 6, lines 22-25; column 90, lines 10-22);

means for comparing (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween (column 7, lines 9-18);

means for attributing to the current user a pattern of future behavior based on such similarities and on the other users' patterns of behavior (column 48, lines 49-57); and

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (figure 1, item 104; column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box and a set top box including a content delivery service and a user monitor, the set top box enabling communication between the current user and a head end, the user monitor including the means for identifying, the means for accessing, the means for comparing, and the means for attributing. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

As to claim 47, Herz teaches the apparatus of claim 46, wherein the means of identifying the conditions surrounding each of the current user's activities includes

means for determining the amount of time that the current user participates in each activity (column 4, lines 39-43)

As to claim 48, Herz teaches the apparatus of claim 47, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; abstract).

As to claims 49 and 50, Herz teaches the apparatus of claims 48 and 46, wherein the first collection of data is based on the other users' activities while engaged with the interactive television service (column 3, lines 35-45; column 90, lines 10-22).

As to claim 51, Herz teaches the apparatus of claim 46, wherein the other users are unrelated individual persons (column 10, lines 17-18; column 30, lines 47-49, Herz discloses a group of users who have been previously interacting on-line with another user).

As to claim 52, Herz teaches the apparatus of claim 46, wherein the other users are members of a group and the current user is identifiable as a potential member of that group (column 10, lines 17-18).

As to claim 53, Herz teaches the apparatus of claim 46, wherein the first collection of data includes data reflecting (i) the identity of each other user, (ii) each activity in which each other user has participated and (iii) the amount of time that each other user participated in each activity (column 32, lines 32-39; column 33-34, lines 65-67 to 1-3; column 4, lines 39-43).

As to claim 54, Herz teaches the apparatus of claim 46, further comprising: means for periodically updating the first collection of data to reflect the other users' ongoing participation in additional activities (column 5, lines 28-30).

As to claim 55, Herz teaches the apparatus of claim 54, wherein the means for periodically updating operates in real time, during the current user's engagement with the interactive television service (column 5, lines 28-30; column 90, lines 10-22).

As to claim 56, Herz teaches the apparatus of claim 46, further comprising: means for accessing a second collection of data that reflects (i) a plurality of activities that are available via the interactive service and (ii) information about each activity within such plurality of available activities that distinguishes it from the other activities within such plurality (column 34, lines 33-45; column 90, lines 10-22); and

wherein the means for attributing includes means for selecting one or more activities, from the plurality of available activities, in which the current user is most

likely to participate during the engagement with the interactive service (column 90, lines 10-22; abstract).

As to claim 57, Herz teaches the apparatus of claim 46, wherein the interactive service is accessed through the Internet, the current user's activities and the other users' activities comprise visits to Internet web sites, and the first collection of data includes data reflecting (i) the identity of each other user, (ii) the types of Internet web sites that each other user has visited, (iii) the content of each type of Internet web site visited by each other user, and (iv) the amount of time spent at each type of Internet web site by each other user (column 77, lines 19-23; column 7, lines 30-35; column 32, lines 32-39; column 33-34, lines 65-67 to 1-3; abstract).

(10) Response to Argument

Applicants' arguments filed 12/28/06 have been fully considered but they are not persuasive.

(A) On pages 14-15 of the Appeal Brief, Applicants disagree with the Advisory Action that Herz discloses the claimed accessing, by a set top box, a first collection of data that reflects "(i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities, the activities including viewing interactive television programming," and

subsequently attributing a pattern of future behavior of the current user based on similarities between the current user's activities and other users' cumulative activities, as well as other users' patterns of behavior, as set forth in claim 1.

In regards to point (A), examiner respectfully disagrees.

The Examiner kindly submits that the applicant(s) misread the applied references used in the rejection. Actually, applicants are construing the claims very narrow by considering the broad teaching of the references used in the rejection. The aforementioned assertion wherein the Appellants disagree with the Advisory Action that Herz discloses the claimed "accessing, by a set top box,....as well as other users' patterns of behavior" was unsupported by objective factual evidence and was not found to be of substantial evidential value. For this assertion to have merit, it is important to Applicants to provide some forms of evidence that convincingly show that Examiner's references do not meet the claims language. Furthermore, Applicants are reminded that 37 CFR 1.111(b) states, "a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirement of this section". Thus, Applicants' assertions are just mere allegation with no supported fact by failing to specifically point out how the language of the claims patentably distinguished them from the cited references. Applicants are reminded that the Examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more

broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969). Hence the 35 U.S.C 102 is hereby sustained. Furthermore, in column 90, lines 10-22, Herz discloses users should first be matched according to their common interest in a type of application which can be jointly interacted with or jointly viewed passively (via PC or TV). Then, secondly, users within such a common interest group may be further subdivided into sub-communities according to more specific common interests which they share (such as sub-communities) of real time correspondents simultaneously watching a popular program on television or according to content profile of the real time dialogues which the users are engaged in e.g., as they jointly navigate the World Wide Web, view a video program or television debate or engage in a video game.

Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

(B) On page 15 of the appeal brief, Appellants' argue that Herz does not teach or suggest at least the combination of accessing a collection of data that reflects cumulative activities that other users have participated, conditions surrounding such other users' cumulative activities, and patterns of behavior exhibited by such other users through their participation in such cumulative activities, then using this data to identify similarities between the activities and surrounding conditions for the current user and

other users, and attributing a pattern of future behavior to the current user based on other users' patterns of behavior.

In regards to point (B), examiner respectfully disagrees.

column 3, lines 39, Herz discloses browsing large article of collection

column 6, lines 22-25, Herz discloses the system for customized electronic identification of desirable objects uses a fundamental methodology for accurately and efficiently matching users and target objects by automatically calculating, using and updating profile information that describes both the users' interests and the target objects' characteristics. The target objects may be published articles, purchasable items, or even other people, and their properties are stored, and/or represented and/or denoted on the electronic media as (digital) data. Examples of target objects can include, but are not limited to: a newspaper story of potential interest, a movie to watch, an item to buy, e-mail to receive, or another person to correspond with.

column 48, lines 49-64, Herz discloses any of the well-known pre-fetching methods that **collect and utilize aggregate statistics on past user behavior, in order to predict future user behavior**, may then be implemented in so as to collect and utilize a separate set of statistics for each cluster of users. In this way, the system generalizes its access pattern statistics from each user to similar users, without generalizing among users who have substantially different interests. The system may further collect and utilize a similar set of statistics that describes the aggregate behavior of all users; in cases where the system cannot confidently make a prediction as to what a particular user will do, because the relevant statistics concerning that user's user

cluster are derived from only a small amount of data, the system may instead make its predictions based on the aggregate statistics for all users, which are derived from a larger amount of data.

(C) On pages 16 and 17, Applicants also disagree with the Advisory Action, and argue that Herz does not teach or suggest "comparing, by a set top box, (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween", as recited in Applicants' claim 1.

In regards to point (C), examiner respectfully disagrees.

Column 7, lines 9-47, Herz discloses The system further includes a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profile sets, and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user. Each user's target profile interest summary is automatically updated on a continuing basis to reflect the user's changing interests (i.e. "comparing activities and conditions between the current user and other users to attribute future behavior to the current user"). Furthermore, users who exhibit an interest in certain World Wide Web sites also exhibit an interest in certain products, the system can match the products with the sites and thereby recommend to the marketers of those

products that they place advertisements at those sites, e.g., in the form of hypertext links to their own sites.

Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

(D) On page 17, Applicants also disagree with the Advisory Action equating Herz's search profiles in users' search profile sets to "the other users' cumulative activities and surrounding conditions" in Applicants' invention.

In regards to point (D), examiner respectfully disagrees.

Column 7, lines 9-47, Herz discloses The system further includes a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profile sets (i.e. "the target profiles of these target objects" is equated to "the current user's identified activities and surrounding conditions", and "the search profiles in users' search profile sets" is equated to "the other users' cumulative activities and surrounding conditions" since in doing the search, the profile processing module is, inherently, comparing the target profiles against "the other user's (i.e. among the users' target profile) cumulative activities to identify similarities therebetween"), and generates for

each user a customized rank-ordered listing of target objects most likely to be of interest to that user. Each user's target profile interest summary is automatically updated on a continuing basis to reflect the user's changing interests. Furthermore, users who exhibit an interest in certain World Wide Web sites also exhibit an interest in certain products, the system can match the products with the sites and thereby recommend to the marketers of those products that they place advertisements at those sites, e.g., in the form of hypertext links to their own sites

(E) On pages 18, Applicants disagree with the Final Office Action characterizing Herz's col. 48, lines 49-57 as disclosing the feature of "attributing to the current user a pattern of future behavior based on such similarities and on the other users' patterns of behavior" recited in claim 1.

Column 48, lines 49-64, Herz discloses any of the well-known pre-fetching methods that **collect and utilize aggregate statistics on past user behavior** (i.e. "the other pattern of behavior"), **in order to predict future user behavior** (i.e. "attributing to the user a pattern of future behavior"), may then be implemented in so as to collect and utilize a separate set of statistics for each cluster of users. In this way, the system generalizes its access pattern statistics from each user to similar users, without generalizing among users who have substantially different interests. The system may further collect and utilize a similar set of statistics that describes the aggregate behavior of all users; in cases where the system cannot confidently make a prediction as to what a particular user will do, because the relevant statistics concerning that user's user

cluster are derived from only a small amount of data, the system may instead make its predictions based on the aggregate statistics for all users, which are derived from a larger amount of data.

Finally, Applicants are making distinctions in their arguments that are not in the claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
El Hadji Sall
Art Unit: 2157
February 20, 2006

Conferees:

Lynne H. Browne

Saleh Najja AU 2155 Br
Ario Etienne

Lynne H. Browne
Appeal Specialist, TQAS
Technology Center 2100

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER